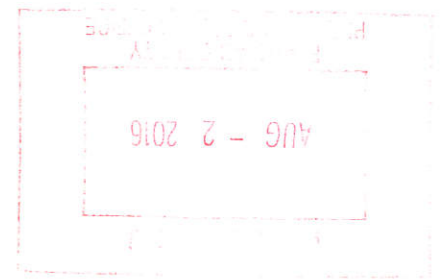




**Flathead County**  
**Planning & Zoning**  
1035 1st Ave W, Kalispell, MT 59901  
Telephone 406.751.8200 Fax 406.751.8210



**PETITION FOR ZONING AMENDMENT**

*Submit this application, all required information, and appropriate fee (see current fee schedule)  
to the Planning & Zoning office at the address listed above.*

**FEE ATTACHED \$ 2751.50 + 75.00**

**APPLICANT/OWNER:**

1. Name: Johnson Family Trust Phone: (530)277-9262  
2. Mail Address: 290 Ramsfield Lane  
3. City/State/Zip: Bigfork, MT 59911  
4 Interest in property (if map amendment): Owner

**Check which applies:** ☒ Map Amendment ☐ Text Amendment:

**TECHNICAL/PROFESSIONAL PARTICIPANTS:**

1. Name: Sands Surveying Inc. Phone: (406) 755-6481  
2. Mailing Address: 2 Village Loop  
3. City, State, Zip: Kalispell, MT 59901  
4. Email: eric@sandssurveying.com

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:**

- A. What is the proposed zoning text/map amendment? N/A

**IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:**

- A. Address of the property: 290 Ramsfield Lane  
B. Legal Description: Gov't Lot 3 and Gov't Lot 4  
*(Lot/Block of Subdivision or Tract #)*  
14 - T27N - R20W  
Section Township Range  
*(Attach sheet for metes and bounds)* N/A  
C. Total acreage: 53.947 acres of the 93.94 acres described as Tract 2 of COS 18233.  
D. Zoning District: Bigfork Zoning District  
E. The present zoning of the above property is: SAG-10 (Suburban Agricultural)  
F. The proposed zoning of the above property is: SAG-5 (Suburban Agricultural)  
G. State the changed or changing conditions that make the proposed amendment necessary: Approximately ten years ago the County zoned 111 acres of the Johnson property SAG-5 which matched the zoning on properties north and

south of the Johnson holding. Approximately a year ago, the Johnson acquired another 93 acres in a single tract but the property is split by SAG-10 and SAG-5 zoning classifications with 40 acres in Sag-5 and the remaining 53 acres in SAG-10. The Johnsons would like to have all their property within a single zoning classification as the Flathead County Zoning Regulations discourages a single tract of record to be split by zoning designations. The Johnsons have no plans for development but intend to continue farming and equestrian activities on the land.

Figure 1



Source: Flathead County GIS, Zoning Layer

**THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.**

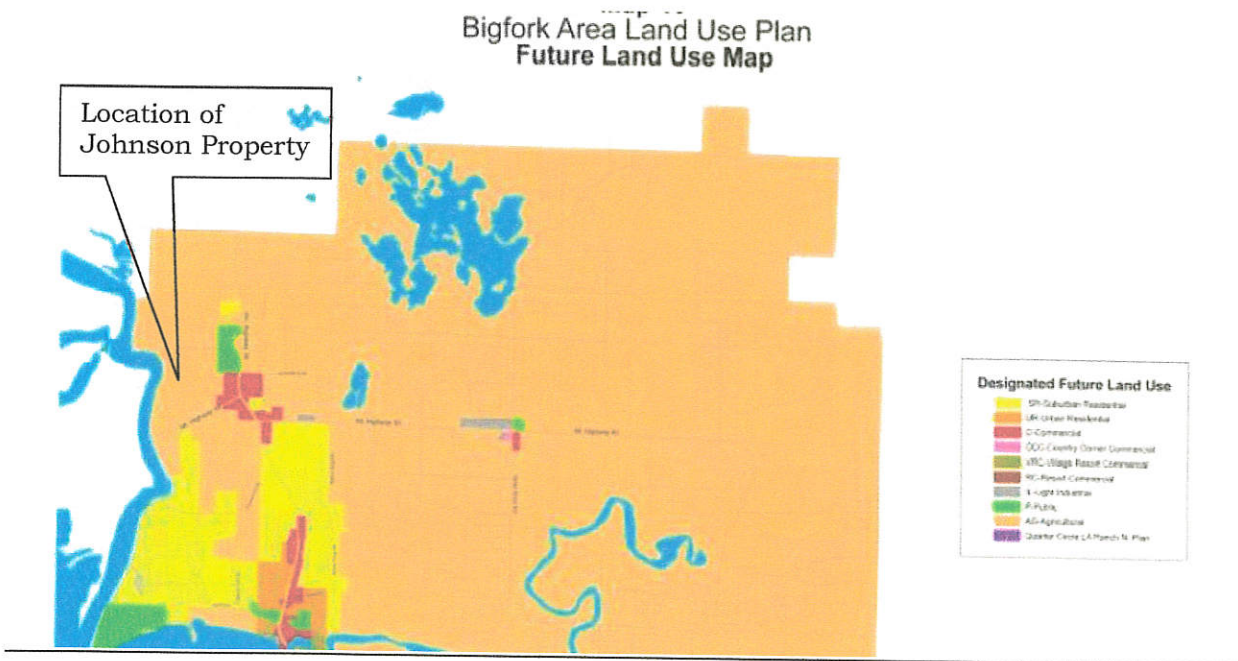
1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The property is located within the boundary of the Bigfork Neighborhood Plan (BNP). The Future Land Use Map of the BNP designates the Johnson Property

with an Agricultural land use category (Figure 2). The Land Use Map designation is supported by the text of the Plan which defines Agricultural lands with designations of SAG-5 to AG-80. The property in question is split by the SAG-5 and SAG-10 zoning designations currently and the zoning designations appear to be supported by the Neighborhood Plan.

The BNP utilized a survey to gather input for land use policy and according to the Plan 76% of the survey respondents supported a “rural/country environment” (Figure I-1). The applicant owns 204 acres of land that is farmed for hay, used and pasture, or maintained in a natural state. The applicant plans to continue these land use practices which support the BNP and survey respondents, but he would also like his lands under a single zoning classification, that being SAG-5.

Figure 2



Source: Bigfork Neighborhood Plan, Map 10, adopted 6/2/09 by Resolution#2208

2. Is the proposed amendment designed to:
  - a. Secure safety from fire and other dangers? The proposed action of the zone change will neither increase nor reduce the dangers of fire, panic, or other hazards. If the property is ever developed or subdivided, the developer will have to design the development for emergency ingress and egress, coordinate with the emergency services, identify and avoid wetland and floodplain areas within the property.

- b. Promote public health, public safety and the general welfare? The property is accessed by Ramsfield Road which is a 60-foot declared County Road. Ramsfield Road is graveled and provides access to a limited number of homes in the neighborhood. The Flathead County Sheriff's Office provides police protection and the Bigfork Volunteer Fire District provides fire and ambulance service.

The proposed SAG-5 zoning classification provides the same setback and height standards as the existing SAG-10 zone and very similar land use restrictions. The uses permitted and conditionally permitted by the Flathead County Zoning Regulations for the SAG-10 (existing) and SAG-5 (proposed) are almost identical. The exceptions are the SAG-10 allows Cell Towers, Dairy product processing, Ranch Employee Housing and Stables as permitted uses while the SAG-5 does not. The SAG-5 requires a CUP for Cell Towers, Stables and Schools..

- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? The property is part of a 204 acre holding of which the house on the property accesses Ramsfield Road. Ramsfield is a gravel county road. If the property were ever developed to the densities prescribed by the zoning, new roads would need to be constructed on the property and all or a portion of Ramsfield would need to be paved per the Flathead County Subdivision Regulations. However there is no plan to subdivide the holding.

Water and sewer would most likely be developed with on-site systems if the property were to be subdivided. Currently the Johnsons home is served by an individual septic and well.

The property is within the Bigfork School District. The Subdivision regulations do not require parkland dedication for lots five acres or larger.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The proposed SAG-5 zoning designation has a minimum lot size of five acres and identical

- ii. The zoning applies to a small area or benefits a small number of separate landowners.

The proposed zone change encompasses 53 acres of the 93 acre tract with the remaining 40 acres already zoned SAG-5. The subject parcel is a comparably large and it abuts 111 acres of SAG-5 also owned by Johnson. Additionally there is another 200 acres zoned SAG-5 contiguous to the proposed zoning change. Therefore, when the subject property is combined with the adjacent SAG-5 lands there are a significant number of land owners and significant land area with the SAG-5 zoning designation.

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

As stated previously, many of the neighboring landowners already have the requested SAG-5 zoning or have parcels less than 10 acres in size. Therefore, the proposed map amendment will give the applicant the same zoning designation as many of his neighbors.

As presented the proposed zone change application does not meet the three tests for "spot zoning" and therefore should be considered a legal request.


- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? The permitted and conditionally permitted uses of the proposed Zoning designation of SAG-5 are almost identical to that of the existing SAG-10 zoning classification. The applicant hays, pastures, and keeps much of their lands in a natural state which is consistent with many of the neighboring properties and both the existing and proposed zoning designations. The proposed zone change should continue to preserve the value of buildings and the appropriate use of the land.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The nearest Municipal Zoning is the Kalispell Zoning Jurisdiction which is approximately 14 miles away and really has no bearing on the subject parcel. The unincorporated town of Bigfork and the surrounding community created a Neighborhood Plan that was adopted by the Flathead County Commissioners in 2009 and this area was zoned in a Bigfork community effort in 1993. We believe that the proposed zone change is in compliance with the Bigfork Neighborhood Plan.

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*The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.*

  
\_\_\_\_\_  
Owner/Applicant Signature(s)

7.30.2016  
\_\_\_\_\_  
Date

## APPLICATION PROCESS

### APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

### APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.

setbacks to the SAG-10. As much of the property located around the applicant's property is already zoned SAG-5, the proposed zoning designation would provide adequate light and air.

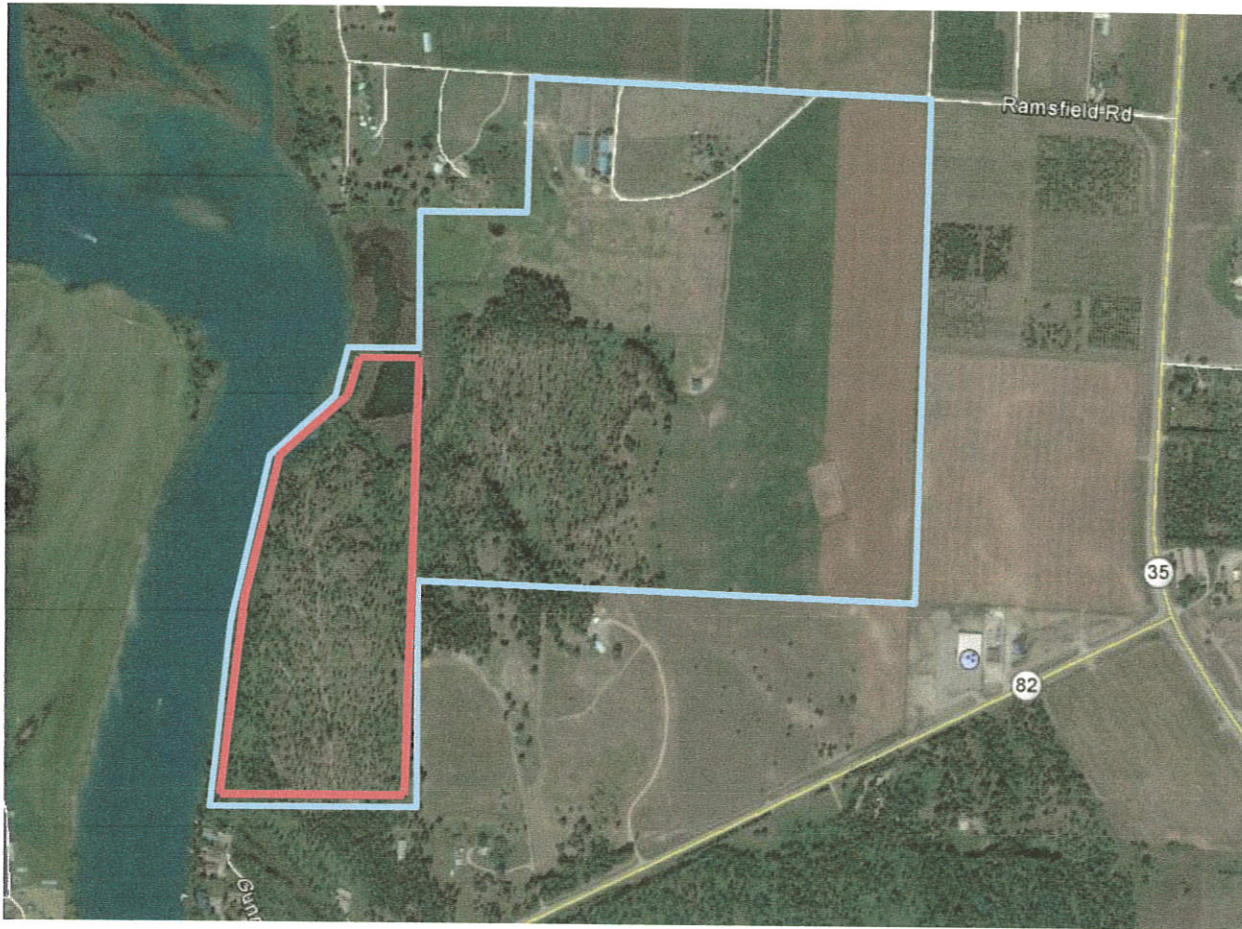
- b. The effect on motorized and non-motorized transportation systems? The Johnson property access Ramsfield Road which is gravel and constructed to County Standards within a 60-foot road right-of-way. The road network provides good access for vehicles and with the relatively slow speeds and low traffic volumes (135 trips per day according to the Flathead County Road Department 2014 counts). Ramsfield connects with Highway 35 to the east and neither Ramsfield or Highway 35 have bike or pedestrian facilities.
- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located approximately 2.5 miles north of the urban center of Bigfork. The existing zoning designation and the proposed designation are both "Agricultural" in land use and density. The proposed SAG-5 is adjacent to other large holdings of SAG-5 zoning designations.
- d. The character of the district and its peculiar suitability for particular uses? Currently the 93 acre parcel (Tract 2 of COS 18233) is split by two zoning districts, 53 acres of which is zoned SAG-10 and 40 acres is zoned SAG-5 (See Figures 1 and 3). The properties to the south are made up of small and large tract residential uses with SAG-10 zoning. The property to the east is agricultural with zoning of SAG-5. The property to the north is a mix of farmed land and suburban residential properties with zoning of SAG-5 and AG-40 zoning. The property to the west includes the Flathead River and un-zoned lands across the River. The uses allowed in the SAG-10 are almost identical to those of the proposed SAG-5.



Views of property proposed for zone change. The subject property is forested with native trees and vegetation. There are no plans to subdivide or active cultivate this acreage.



Figure 3



Source: Google Earth – Blue boundary is the Johnson holding and the property outlined in red is the property proposed for the zone change.

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The proposed SAG-5 zoning classification provides the same setback and height standards as the existing SAG-10 zone and very similar land use regulations. The uses permitted and conditionally permitted by the Flathead County Zoning Regulations for the SAG-10 (existing) and SAG-5 (proposed) are almost identical with 16 permitted uses being the same and 23 conditionally permitted uses being the same.